

**OFFICE OF EXECUTIVE POLICY AND PROGRAMS
REDUCTION IN FORCE**

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I. Purpose and Scope

The purpose of this policy is to prescribe the manner in which covered employees of the Governor's Office are released in an equitable manner should a reduction in force become necessary. A reduction in force may require the separation, involuntary demotion, reassignment, or reduction in work hours of the Agency's covered employees. A reduction in force does not apply to non-covered employees (e.g., probationary employees, temporary employees, temporary grant employees, time-limited project employees, research grant employees and employees exempt from the State Employee Grievance Procedure Act).

The Agency may implement a reduction in force for one or more of the following four reasons:

- A. Reorganization;
- B. Work Shortage;
- C. Loss of Funding; or
- D. Outsourcing/Privatization.

II. Management Decisions

The Agency shall determine the following items prior to developing the reduction in force plan:

- A. What is the reason(s) for the reduction in force;
- B. What area(s) of the agency is to be impacted by the reduction in force [Competitive Area(s)];
- C. What State class title(s) within the competitive area(s) is to be affected [Competitive Group(s)]; and
- D. How many positions in each State class title(s) are to be eliminated.

III. Competitive Area(s)

The Agency shall determine the competitive area(s) the reduction in force will impact. The Agency should establish a competitive area that is clearly distinguishable from the staff in other

areas and where the interchange of employees would not be practical. This competitive area may be the entire agency, a division, an office, a section, a unit, or a geographical location.

IV. Competitive Group(s)

The Agency shall determine the competitive group(s) based on the State class title(s) within the competitive area(s) that the reduction in force will affect. If the reduction in force is to apply to more than one State class title, each State class title will be treated separately, except where the reductions are to be made in a State class title series (e.g., Auditor I, Auditor II, Auditor III, Auditor IV, Audits Manager I, Audits Manager II) or in State class titles that are part of the Agency's customary career path (e.g., Administrative Assistant, Communications Coordinator, Program Coordinator II, Program Manager I).

V. Position Identification

The Agency shall identify the position(s) within the competitive area(s) and competitive group(s) by identifying the following information:

- A. State Class Title;
- B. State Class Code;
- C. State Band Level;
- D. Total number of positions in the State class title within the competitive area; and
- E. Total number of positions in the State class title within the competitive area to be eliminated.

VI. Retention Points

The Agency shall calculate retention points for covered employees in the competitive area(s) and competitive group(s) to be used in determining which covered employees are to be involuntarily demoted, reassigned, have reduced hours or separated. Retention points shall be based on the total scores of the two most recent annual performance appraisals and the length of continuous state service. For purposes of calculating retention points, an "annual" performance appraisal is a review of an employee's performance for a period of not less than twelve consecutive months. "Continuous state service" is defined by and determined in accordance with OHR Regulation 19-719.01. The sum of the retention points for performance and length of continuous state service are the total retention points that an employee uses in the competition.

A. Performance Appraisal Points

The Agency will determine the total score for an annual performance rating by using the following numerical values assigned to the EPMS performance ratings. The following ratings and values are to be used for those employees receiving evaluations covered under the Agency's EPMS Policy prior to November 2, 2006:

<i>Substantially Exceeds</i> Performance Requirements	8
<i>Exceeds</i> Performance Requirements	6
<i>Meets</i> Performance Requirements	2
<i>Below</i> Performance Requirements	0

The following ratings and values are to be used for those employees receiving evaluations covered under the Agency's EPMS Policy after November 2, 2006:

Exceptional	6
Successful	2
Unacceptable	0

The Agency will recognize the performance rating of *Substantially Exceeds* for current state employees transferring to the Agency as *Exceptional*. If the Agency did not complete an annual performance appraisal for an employee, the Agency will assign two points for a *Meets* or *Successful* rating. However, for any covered employee that has been in a position in the same State class title for two or more continuous years, and if the covered employee received a higher than *Meets* or *Successful* rating in the preceding year, the Agency will assign the points corresponding to the higher performance rating. If the covered employee's most recent performance rating is a *Below* or *Unacceptable* rating (0) which is more than two years old, the Agency will assign the points equivalent to a *Meets* or *Successful* rating.

B. Continuous State Service Points

Covered employees will receive one retention point for each year of continuous state service after completion of a 12-month probationary period. Six months or more of continuous state service will be considered as one year of service and less than six months of service will receive no retention points.

C. Exception to Procedure for Retention Point Calculation

If every position in the competitive area is being eliminated, the agency is not required to calculate retention points. For positions reestablished within one year of the RIF, in the same competitive area and in the same state class title, the agency must calculate retention points at the time of recall or reinstatement. The agency must calculate retention points using continuous state service and performance appraisal points based on the effective date of the reduction in force.

VII. Sequence of Reduction in Force

The order of the reduction in force of covered employees in each State class title(s) shall be determined by the total number of retention points for each employee. If two or more employees affected by a reduction in force have the same number of retention points and not all are to be affected by the reduction in force, the agency hire date will determine the order of the employees affected.

Bumping rights are provided for covered employees who have accumulated more retention points than those with whom they are competing. Under no circumstances can an employee gain from a reduction in force. Bumping rights are provided only downward.

VIII. Retention of Necessary Qualifications

No employee with a lower number of retention points shall be retained in preference to another employee in a competitive area(s) and group(s) with a higher number of retention points except when the Agency determines that a Retention of Necessary Qualifications applies.

If an employee is competing for a position that is not being eliminated and the Agency asserts that an employee with higher retention points who has rights to be placed in that position cannot satisfactorily perform the duties of the position within a reasonable training period, the employee with lower retention points may be retained in preference to the employee with higher retention points. The Agency may determine that the employee with higher retention points will not be able within a reasonable training period to satisfactorily perform the duties of the job based on the lack of knowledge, abilities, skills, supervisory responsibilities, or necessary experience.

When a Retention of Necessary Qualifications is used in a reduction in force plan, justification for this retention must be documented and approved by the Agency prior to submitting the reduction in force plan to OHR for review and approval for procedural correctness. The Agency should retain documentation to support any retention made on this basis.

IX. Writing the Reduction in Force Plan

Once the Agency has made the decisions outlined above and prior to the implementation of a reduction in force, the Agency Director or his designee shall develop the reduction in force plan. This plan must include the following:

- A. The reason for the reduction in force;
- B. The identification of the competitive area(s);
- C. The identification of the competitive group(s) [State class title(s)];
- D. The number of position(s) to be eliminated in each State class title;
- E. A list of the covered employees, in order of retention points, in the competitive area(s) and competitive group(s) to include the following:
 - 1. Name;
 - 2. Age, Race, and Gender; and
 - 3. Retention Points;
- F. Justification of any Retention of Necessary Qualifications used in the reduction in force plan; and
- G. The Agency's efforts to assist employees affected by the reduction in force.

X. Approval Process

Once the reduction in force plan has been completed, the Agency shall submit the following information to the OHR for review and approval for procedural correctness:

The reduction in force plan as outlined in Section IX;

- A. An organizational chart including each position (designated with the State class title and incumbent's name) within the competitive area(s);
- B. A copy of the Agency's reduction in force policy; and
- C. A sample letter to employees affected by the reduction in force including information as outlined in Section XI, along with:
 - 1. A list of the employee's recall and reinstatement rights;
 - 2. The Agency's procedure for the recall of an employee; and
 - 3. The employee's grievance rights.

XI. Implementation of the Reduction in Force:

The Agency shall communicate the following information to each affected employee after OHR approves the reduction in force plan for procedural correctness and before the reduction in force becomes effective:

- A. The reason for the reduction in force;
- B. The competitive area(s) and competitive group(s) in which the employee competed;
- C. The benefits to which the employee is entitled and the manner in which the reduction in force will affect the employee's State benefits, (e.g., health insurance, optional life insurance, retirement);
- D. The employee's reinstatement rights (e.g., reinstatement of all sick leave; option of buying back all, some, or none of the annual leave at the rate at which it was paid out);
- E. The employee's recall rights to any position, within the competitive area, that becomes available in the same State class title as the position the employee held prior to the reduction in force;
- F. The manner in which the agency will notify the employee of any such vacancies; and
- G. The requirements of SC Code of Laws Ann. Section 8-11-185, that the agency report information about the employees in a reduction in force to OHR.

XII. Recall and Reinstatement Rights

An employee affected by a reduction in force has recall and reinstatement rights to a position in State government for one year after the effective date of the reduction in force. At the time of recall or reinstatement, the Agency will reinstate all employee benefits, including the employee's accumulated sick leave, and will provide the employee the option of buying back all, some, or none of his annual leave at the rate it was paid out at the time of the separation.

A. Recall Rights

If a vacancy occurs within the competitive area which is in the same State class title as the position the employee held prior to the reduction in force, the Agency will recall employees in the inverse order of the reduction in force. The Agency will notify the employee in writing of the job offer and recall rights. If the employee does not accept the job offer within ten days, the employee's recall rights are waived.

B. Reinstatement Rights

An employee affected by a reduction in force may apply for any State job for which he meets the minimum training and experience requirements. Should the employee accept a job offer to a Full-Time Equivalent (FTE) position which receives benefits, he is entitled to the restoration of employee benefits. These benefits include the employee's accumulated sick leave, and the employee will be provided the option of buying back all, some, or none of his annual leave at the rate it was paid out at the time of the separation from the Agency where he was previously employed. If the employee is reinstated to another position, he still retains his recall rights to a position in the same State class in the competitive area.

XIII. Grievance Rights

A covered employee who is affected by a reduction in force has the right to file a grievance to the Agency and an appeal to the State Human Resources Director only if the grievance or appeal is based on improper or inconsistent application of a reduction in force policy or plan.